

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MARYLAND
NORTHERN DIVISION

FRANK TIZER
911 Oakleigh Beach Road
Baltimore, Maryland, 21222

Plaintiff

vs.

Case No.:

ALFRED E. ESPOSITO
7115 Williams Grove
Glen Burnie, Maryland, 21060

And

UNITED STATES POSTAL SERVICE
U.S. Postmaster General
475 L'Enfant Plaza, S.W.
Washington, D.C. 20260

And

UNITED STATES OF AMERICA
United States Attorney General
The United States Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

Defendants

* * * * *

COMPLAINT AND REQUEST FOR JURY TRIAL

COMES NOW, Frank Tizer, (hereinafter "Plaintiff"), by and through his attorneys Francis Lanasa, Esq. and Murtha, Psoras & Lanasa, LLC sue the Defendants, Alfred E. Esposito, the United States Postal Service, and the United States of America pursuant to 28 U.S.C. § 1346, *et seq.* and states as follows:

INTRODUCTION

1. This is a civil case brought pursuant to the Federal Tort Claims Act seeking

monetary damages against Defendants for committing acts or omissions of negligence against the Plaintiff.

JURISDICTION

2. Defendant, Thomas A. Esposito (hereinafter also referred to as Defendant Esposito) committed acts or omissions of negligence while acting within the scope of his employment as a mail carrier for the United States Postal Service hereinafter also referred to as Postal Service or “USPS”) on or about June 6, 2015.

3. The Postal Service and the United States of America are named Defendants to this action.

4. This Court has jurisdiction under 28 U.S.C. § 1346, *et seq.*

PARTIES

5. Plaintiff, Frank Tizer, (hereinafter also referred to as Tizer) is a resident of Baltimore County, Maryland.

6. Defendant Esposito is a resident of Glen Burnie, Maryland and was, at the time of the negligence described herein, an employee of the United States Postal Service.

7. The Postal Service is an agency of the government of the United States.

COUNT I- NEGLIGENCE

(Defendant Esposito, Individually and as an Agent of the Postal Service)

8. The Plaintiff repeats and re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 7 as if fully set forth herein.

9. On or about June 6, 2015, Plaintiff was operating his motorcycle westbound on Mountain Road in Glen Burnie, Maryland approaching its intersection with Longhill Road.

10. On the same date and at the same time, Defendant Esposito, acting as an authorized agent of the Postal Service, was operating a United States Postal Service vehicle

(hereinafter also referred to as “Truck”). Defendant Esposito was parked on a shoulder lane of Mountain Road facing his vehicle in a westbound direction while making a delivery at 122 Mountain Road.

11. Upon completing the delivery, Defendant Esposito made a left turn to go eastbound on Mountain Road (illegal U-turn).

12. As Defendant Esposito crossed lane 2 and entered lane 1, Defendant Esposito failed to yield the right of way, entered onto lane 1 of Mountain Road directly in front of the Plaintiff’s oncoming motorcycle and caused a collision between the two vehicles.

13. The Defendant was negligent and careless in that he:

- (a) failed to maintain proper control of his vehicle;
- (b) failed to observe the Plaintiffs vehicle;
- (c) failed to keep a proper lookout;
- (d) failed to avoid a collision;
- (e) failed to observe the presence and proximity of the Plaintiffs vehicle; and
- (f) was in other respects negligent and careless.
- (g) failed to comply with Maryland State Traffic Laws.

14. Defendant Esposito had a duty of care to operate his vehicle in a proper fashion and he breached his duty of care by failing to operate his vehicle in a safe and proper manner.

15. The Defendant’s negligence proximately caused the Plaintiff to suffer injuries about his body and limbs, to suffer mental anguish, and to sustain medical and other expenses, loss of wages, and property damages.

16. The injuries and damages complained of occurred solely through negligence on the part of the Defendant, without any negligence on the part of the Plaintiff.

WHEREFORE, the Plaintiff claims Five-Hundred Thousand Dollars (\$500,000.00) in

damages plus costs and expenses against the Defendant Thomas A. Esposito.

COUNT II-RESPONDEAT SUPERIOR
(United States Postal Service and the United States of America)

17. The Plaintiff repeats and re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 16 as if fully set forth herein.

18. The Postal Service is an agency of the government of the United States of America and organized under the laws thereof.

19. At all times during the events set forth in this Complaint, Defendant Esposito was employed by or was an agent of the Postal Service, and of the United States of America and was performing his duties as a mail carrier on behalf of the USPS, his employer or principal.

20. At the times during these events set forth in this Complaint, Defendant Esposito was acting within the scope of his employment or agency for the Postal Service, in that he was on duty as a mail carrier for the Postal Service and acted in furtherance of the interests of the Postal Service and the United States of America.

21. As the employer or principal of Defendant Esposito, the Postal Service and the United States of America are responsible for all of the acts and omissions committed by Defendant Esposito within the scope of his employment or agency.

WHEREFORE, the Plaintiff claims Five-Hundred Thousand Dollars (\$500,000.00) in damages plus costs and expenses against the United States Postal Service and the United States of America.

COUNT III-AGENCY

22. The Plaintiff repeats and re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 21 as if fully set forth herein.

23. The Postal Service was the owner of the Truck operated by Defendant Esposito

during the events set forth in this Complaint.

24. At all times during the events set forth in this Complaint, Defendant Esposito was operating the Truck as an agent of the Postal Service, and the government of the United States of America in that he was performing his duties as a mail carrier on behalf of, at the direction and control of, and in the furtherance of the interests of the Postal Service. Therefore, at all times during the events set forth in this Complaint, Defendant Esposito was acting within the scope of his agency for the Postal Service, and the United States of America.

25. As the principal of Defendant Esposito, the Postal Service, and the government of the United States of America are responsible for all of the acts and omissions committed by Defendant Esposito within the scope of his agency.

WHEREFORE, Plaintiff Tizer claims Five-Hundred Thousand Dollars (\$500,000.00) in damages plus costs and expenses against the United States Postal Service and the United States of America.

Respectfully Submitted

MURTHA, PSORAS & LANASA, LLC

_____/s/_____
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Defendants

* * * * *

REQUEST FOR JURY TRIAL

Plaintiff hereby requests that the above captioned case be tried before a jury.

MURTHA, PSORAS & LANASA, LLC

_____/s/_____

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